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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/817,254

04/01/2004

Pat Y. Mah

MAH-43

1786

7590

07/13/2006

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EXAMINER

LANDRUM, EDWARD F

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/817,254

Applicant(s)

MAH, PAT Y.

Examiner

Edward F. Landrum

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Foreign Patent

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frazer (U.S Patent No. 6,282,997) in view of Pogetti et al (German Patent No. DE 3830934 A1), hereinafter Pogetti, in further view of Janky (U.S Patent No. 5,815,866).

Frazer teaches (see Figure 20) first and second members each having both a jaw portion and a handle portion. There is a pivot point separating the jaw and handle portions of each member. The handle members are spring biased. The spring is located between the first handle member and a tool handle which supports the second handle portion. The second handle is also pivotally deployable relative to the tool handle. The first and second jaws are scissor jaws and form a scissor set. The tool handle has at least one other tool member attached to it.

Frazer teaches all of the elements of the current invention as stated above except for the use of magnets to force the first and second handle members away from each other.

Pogetti teaches (see Figures 1-9) first and second members each having both a jaw portion and a handle portion. There is a pivot point (8) separating the jaw and handle portions of each member. The first and second handle members each contain

magnets which have the same polarity, therefore each handle member exerts a repulsive force on the other. As shown in Figure 4, the magnets can be place anywhere on either handle and the handle could include multiple magnets. Figure 7 shows that the magnets do not need to be directly across from each other to work, but could be placed at any location which offers enough of a repelling force to adequately force away each handle member from the other while still allow a user to easily cut a material.

Janky teaches (Col. 4, lines 6-33) it is old and well known in the cutting art to embed magnetic material in opposing pivotal members to force the pivotal members away from each other when in a cutting position.

It would have been obvious to have modified Frazer to incorporate the teachings of Pogetti and Janky to replace the metal spring with a pair of magnets. Using magnets instead of metal springs would eliminate moving parts that could become jammed or bent after excessive use, thereby prolonging the life of the scissors. The magnets could be placed in the scissors or tool handle at any location that would provide a sufficient repelling force while still allow a user to easily use the scissors.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Frazer in view of Bradbury et al (U.S Patent No. 5,513,405), hereinafter Bradbury.

The modified device of Frazer teaches all of the elements of the current invention as stated above except that at least one of the first or second magnets is available externally when the scissor unit is stored in the tool handle.

Bradbury teaches (Col. 4, lines 51-54) a multipurpose cutting tool with a magnet attached externally to the tool to distinguish steel from other metallic recyclables like aluminum.

It would have been obvious to have modified the modified device of Frazer to incorporate the teachings of Bradbury to keep one of the two magnets already incorporated into the scissors of the multipurpose unit available externally of the tool handle to increase the tool's overall utility by allowing a user to accurately distinguish between different types of metals thereby allowing a user to separate different recyclables when using the tool for other purposes besides cutting.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 3-6, and 8 have been considered but are moot in view of the new ground(s) of rejection.

Regarding applicant's remarks stating the magnets would take up too much space in the tool handle, Janky has been included to show that it is old and well known to incorporate handles into the recesses of pivotal members, thereby decreasing the amount of space necessary for magnets.

Furthermore, Bradbury shows that there is an important use for an exposed magnet as part of a multipurpose tool. It would have been obvious to take design influences from other utility tools to make the modified device of Frazer suitable to be used for many different functions. Using magnets to separate different types of trash for recycling purposes increases the overall utility of the modified device of Frazer thereby making it suitable for use in more situations.

Art Unit: 3724

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zajdel (U.S Patent No. 6,865,816) , and Lamond et al (U.S Patent No. 6,233,830) teach magnets placed in a tool handle for the purpose of repelling one or more parts of the handle.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

Art Unit: 3724

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EFL
6/28/2006



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER